IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

WRIT PETITION NO.1963 OF 2007

Dena Bank ..Petitioner.
Vs.
Dr. Pranjivan Purshottam Zaveri and others ..Respondents.
....
Mr. Ranjig Shetty with Mr. Pritesh Gor i/b PDS Legal for the Petitioner.

Mr. S.U. Kamdar with Mr. Hemant Sethi for Respondents 1 and 2.
....

CORAM: **SWATANTER KUMAR, C.J. &**
DR. D.Y. CHANDRACHUD, J.

10th October, 2007.

P.C. :

The challenge in the present Writ Petition is to the order dated 16th August, 2007 passed by the Debt Recovery Appellate Tribunal at Mumbai. It is a conceded case before us that Respondents 1 and 2 are neither the borrowers nor the guarantors in relation to the transaction in question. These Respondents had just purchased the property from the borrower which property in turn has already been attached and taken possession by the bank. Even if the case of the bank is taken at face value, the liability of the Appellant shall be limited to the extent of the property which has already been taken possession by the bank and the bank

would have no further cause of action against these two Respondents. Ofcourse they are at liberty to proceed against the borrowers or the guarantors, as the case may be, in accordance with law. Keeping in view these facts, the appellate authority while exercising its discretion under Section 18 of the the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 Act granted exemption to the Appellant from the condition of pre-deposit. The basic argument was that Respondent Nos.1 and 2 were not covered under the term 'borrower' appearing in Section 2(f) of the Act which approach apparently neither suffers from any legal infirmity nor is any observation called for in the facts and circumstances of the case. Consequently, we see no merit in the Petition. The same is dismissed leaving the parties to bear their own costs. However, the Appellate Tribunal may expedite the hearing of the Appeal.

CHIEF JUSTICE

DR. D.Y. CHANDRACHUD, J.